



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 2, 1998

Mr. James R. Schnurr
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
Room 206, 2014 Main Street
Dallas, Texas 75201

OR98-2356

Dear Mr. Schnurr:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 118414.

The Dallas Police Department (the "department") received a request for "all domestic violence records" concerning a specific individual. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Pursuant to section 552.301(b), a governmental body is required to submit to this office (1) general written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, and (3) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. You did not submit to this office copies or representative samples of the specific information that was requested or a copy of the written request for information.

Pursuant to section 552.303(c) of the Government Code, this office notified you by facsimile dated September 15, 1998, that you had failed to submit the information required by section 552.301(b). We requested that you provide this information to our office within seven days from the date of receiving the notice. The notice further stated that under section 552.303(e), failure to comply would result in the legal presumption that the information at issue was presumed public.

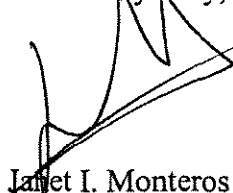
As of the date of this letter, you have not provided our office with the information that was requested. Therefore, as provided by section 552.303(e), the information that is the

subject of this request for information is presumed to be public information. Information that is presumed public must be released unless a governmental body demonstrates a compelling interest to withhold the information to overcome this presumption. *See Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.--Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to Gov't Code § 552.302); Open Records Decision No. 319 (1982). *See, e.g.*, 150 (1977) (presumption of openness overcome by a showing that the information is made confidential by another source of law or affects third party interests).

The requestor here is asking for any unspecified records in which the named individual is identified. The requestor is, in essence, asking that the city compile this individual's criminal history. Where an individual's criminal history information has been compiled by a governmental entity, the information takes on a character that implicates the individual's right to privacy. *See United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989) (concluding that federal regulations which limit access to criminal history record information that states obtain from the federal government or other states recognize privacy interest in such information). Similarly, open records decisions issued by this office acknowledge this privacy interest. *See* Open Records Decision Nos. 616 (1993), 565 (1990).¹ The department, therefore, must withhold all compilations of the referenced individual's criminal history pursuant to section 552.101.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Jafet I. Monteros
Assistant Attorney General
Open Records Division

JIM/nc

Ref.: ID# 118414

¹The applicability of section 552.101 provides a compelling reason to overcome the presumption of openness. Open Records Decision Nos. 630 (1994), 473 (1987).

Enclosures: Submitted documents

cc: Ms. Jane Mackey
3922 Simpson Street, #235
Dallas, Texas 75246
(w/o enclosures)